

**OPINION
50-114**

April 28, 1950 (OPINION)

LICENSES

RE: Interstate Sale of Oleomargarine

Your letter of the 26th inst. re above matter has been received and referred to my desk.

Of course, our statutes (ch. 19-05 N.D.R.C. 1943) prohibit the sale in this state of oleomargarine without complying with the provisions of this chapter with reference to licenses, stamps, etc.

However, we cannot require persons beyond the jurisdiction of the state to comply with these provisions; that is, we cannot interfere with out-of-state companies selling by mail and shipping this product into this state in interstate commerce. If these companies had agents in this state we might have a chance to reach them through the agent. But if there is no resident agent, it is our opinion that these companies who accept mail orders and ship into the state by common carrier to the individual sending the order are fully protected by the laws of Congress, relating to interstate commerce.

However, this chapter, section 19-0513, makes it unlawful for any one within the state to use or consume oleomargarine from an unstamped package. And a penalty of \$25.00 to \$100.00 or 30 days in jail, or both, is provided. It appears that no one other than a licensed dealer may purchase these stamps, so one who imports oleomargarine for his own use may not secure stamps to affix to his packages. Therefore, the provisions of this chapter practically prohibit the importation for personal use. The effective enforcement of the statute seems practically impossible. It would seem that the wide advertisement of the fact that one importing and using unstamped oleomargarine is violating the law and may be subject to these penalties might curb the practice in some degree.

WALLACE E. WARNER

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